

TITLE 326 AIR POLLUTION CONTROL BOARD

#01-249(LSA)

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On April 12, 2001, the air pollution control board conducted the first public hearing/board meeting concerning the development of amendments to 326 IAC 2-6. Comments were made by the following parties:

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|-----------------------------------|-------|
| BP Amoco Oil | BP |
| Citizens Gas and Coke Utility | CGCU |
| Citizens Thermal Energy | CTE |
| Eli Lilly and Company | ELC |
| General Electric Company | GE |
| Improving Kids Environment | IKE |
| Indiana Cast Metals Association | INCMA |
| Indiana Chamber of Commerce | ICC |
| Indiana Manufacturers Association | IMA |
| Indiana Petroleum Council | IPC |
| Indianapolis Coke | IC |
| Jim Hauck | JH |
| Milestone Contractors, L.P. | MCLP |
| Monaco Coach Corporation | MCC |
| Stephen Loeschner | SL |
| Utilimaster Corporation | UC |

Following is a summary of the comments received and IDEM's responses thereto.

Comment: Quality information is a critical tool to sound decision making. It is also essential to fulfill the public's right to know about the air emissions in their community. This draft rule fills serious gaps in the current regulations in a reasonable manner that balances the potential burden of the rule without compromising the quality of the information. (IKE)(SL)

Response: IDEM agrees that this information is valuable and is attempting to balance the needs of obtaining information necessary for establishing good public health policy with reporting requirements that can be reasonably met by industry.

Comment: The Board needs to contemplate whether or not to mandate a broad and extensive reporting scheme that becomes a regulatory compliance obligation for about fifteen hundred (1500) sources in the state on a regular basis. About five hundred (500) FESOP sources would report every three years and about one thousand (1000) Title V sources would report annually. It is a broad expansion of the program. (BP)(ELC)(GE)(ICMA)(IMA)(IPC)(JH)(MCLP)

Response: While the number of pollutants to be reported will increase, IDEM does not agree that the number of sources affected by the proposed rule would expand significantly because the proposed rule would exempt about three hundred (300) small sources. IDEM has tried to draft the rule so that the pollutants to be reported, the level to be reported and the sources affected are consistent with the objectives of this rulemaking. We recognize the concerns raised and are currently evaluating ways to simplify reporting for sources newly affected by the emission reporting requirements.

Comment: IDEM should initiate a coherent work group to try to work through the issues of the draft emission reporting rule. (ICMA)

Comment: IDEM should sit down with interested stakeholders to work out the remaining issues with the rule. (MCC)

Comment: IDEM staff has extended extra efforts to inform the public and the regulated community about the rule and engage them in the process of refining the rule. (IKE)(SL)

Comment: The timing of public meetings has been backwards. There were no external discussions with interested stakeholders before the draft rule was published on February 1, 2001. By that time, IDEM already knew exactly what it wanted and had already committed policies and concepts to rule language. We do not think that is the appropriate way to conduct a rulemaking with a significant change in public policy. (BP)(ELC)(GE)(ICMA)(IMA)(IPC)(JH)(MCLP)

Response: IDEM is aware that this rulemaking raises substantive policy issues that warrant discussion and has held meetings in Indianapolis and Goshen and will be meeting with interested parties concerning this rule. IDEM will hold additional meetings, that all interested parties may attend, and will be available to meet individually with businesses and the public prior to taking the proposed rule to the board with a recommendation to final adopt.

Comment: The sunset legislation should not be the reason for this draft rule, which is substantially different than the current rule, being on a fast track. (BP)(IPC)(JH)

Comment: We have not received responses to the public comments that were submitted in March. There is not enough foresight and enough thought being given to this draft rule. It is being rushed through the rulemaking process. (MCLP)

Comment: The sunset rule should not be used as an excuse to rush this rule through without adequately addressing the concerns and issues of the regulated community. IDEM has not addressed written comments and there has been no fair negotiations or exchange of information. (MCC)

Comment: The First Notice of Comment Period was published on November 1, 1997 and the Second Notice of Comment Period was published on February 1, 2001. During this time, there were no public meetings or workshops to discuss specific issues with interested parties. From February 1, 2001 to final adoption on August 1, 2001, the rulemaking process speeds up and there is not enough time for discussions of the policy questions.

(BP)(ELC)(GE)(ICMA)(IMA)(IPC)(JH)(MCC)(MCLP)(UC)

Response: The requirements of the sunset law were a reality not an excuse. With the passage of House Enrolled Act No. 2147, IDEM and interested parties have more time to work through the policy issues. The responses to comments received during the second comment period are included with the April 12, 2001 board packet materials and are also included with this proposed rule.

Comment: IDEM should first; understand what is the purpose of the information being requested; second, identify the appropriate, accurate detail and timeliness of that information; and third, suggest alternative, less burdensome ways for IDEM to obtain the proper information in a fair manner. (ICC)

Response: There are numerous uses for the information and data required to be submitted to IDEM by the emission reporting rule. The data currently are used for public information, Title V billing, analysis of long-term air quality trends, evaluation of effectiveness of control strategies by comparison to monitored data, determination of types of processes emitting pollutants of interest, and air quality modeling for several types of permits and state implementation plans (SIPs). Our knowledge of the concentrations and effects of toxic pollutants is limited at this time. The information collected in the future will be used as above, with additional cumulative exposure modeling, risk analysis, and comparisons to newly installed and future toxic monitoring sites.

As an example of the uses for data, the information currently being collected for criteria pollutants is used for SIP and permit modeling. In the last three to four years, modeling has been performed to support permit conditions for major sources in at least twenty-five counties, many of which require inclusion of information from outside counties in the areas of influence. There has been state-wide modeling of all sources for the NO_x rule. It appears that there will again be state-wide modeling required for the 8-hour ozone and regional haze/fine particulate standards. All of these projects require stack parameter, locational, and process information to produce meaningful results. Indiana data are also used by other states and the U.S. EPA for similar projects.

IDEM is open to alternative suggestions for collecting this information, including a provision that sources provide information upon request to the department rather than on a regular schedule. In the above example, while the locational and stack information is necessary, it is only required to be submitted once, as long as the processes and physical configurations remain the same. For yearly reports, only the production information would need to be updated. The software performs the calculations that provide updated emissions for yearly trends analysis and billing, among other uses.

Comment: What are the benefits to the environment and the citizens of Indiana from this rule? (MCC)(UC)

Comment: This draft rule will impose burdensome, expensive and unnecessary demands on industry, with little, if any, environmental benefits. (ICC)

Response: IDEM is charged with protecting the public health and the environment. That effort can only begin with an accurate understanding of what pollutants are in the ambient air and which sources are emitting them. Among the ways it can do this is to collect information regarding emissions to provide reports to the public or for comparing with monitored data. IDEM recently started the toxics monitoring program; this information will be used to better understand causes of any high toxics concentrations.

An example of the need for the level of detail required in this draft rule is the NO_x SIP Call rule. This could be one of the most beneficial air pollution control rules created to protect public health in many years. Few people envisioned the need for NO_x emissions data for the NO_x SIP Call rule when the emission reporting rule was adopted. The resulting stack and locational information that was collected for criteria pollutants enabled agencies across the U.S. to model the problem and propose

solutions. The process information allowed the regulating agencies to determine important sources of pollution and ensured the ability to estimate cost effectiveness of various controls for specific processes. These types of analyses will continue to be performed for toxic compounds, the new 8-hour ozone standard, and fine particulate. IDEM welcomes alternative specific suggestions for ways to collect this information that would be less burdensome to affected sources.

Comment: EPA has been establishing hazardous air pollutants (HAPs) requirements for many industries under the maximum achievable control technology (MACT) program, which regulates the highest priority sources, thus IDEM is looking to regulate the sources that are left. IDEM could use other data to identify the emissions that the MACT rules are not hitting.
(BP)(ELC)(GE)(ICMA)(IMA)(IPC)(JH)(MCLP)

Response: IDEM agrees that U.S. EPA is responsible for developing federal standards for all major sources of HAPs. However, to date, the federal toxics program, as amended in the 1990 Clean Air Act, has not prioritized sources based on the pollutants that they emit but rather on the ability to develop a technology-based standard. The data collected through HAP emission reporting will allow Indiana to identify gaps in the federal program that need to be addressed to adequately protect the public health and environment of all Indiana citizens. Because the MACT standards themselves are based upon old and sometimes inaccurate data, it is clear that U.S. EPA has not identified other sources of data, including Toxic Release Inventory (TRI), to fill in the information gaps. Process-level emission reporting by sources of the pollutants is the most reliable mechanism for collecting this data.

Comment: The rule should be extended to incorporate, at a minimum, the one hundred eighty eight (188) chemicals that are listed in the Clean Air Act Amendments of 1990. (SL)

Comment: The Toxic Release Inventory (TRI) does not combine the base metal with the metal compounds because the hazards of the base metal are quite different. Where TRI makes a distinction, so should the emission reporting rule. (IKE)(SL)

Comment: Since the mid 1980's, new sources have had to evaluate their emissions of particularly hazardous, non-criteria pollutants that are listed in 326 IAC 2-2-1(w). Most of these non-criteria pollutants are included in the list to report, but asbestos, fluorides, (sodium fluoride and sodium aluminum fluoride), sulfuric acid mist, and hydrogen sulfide should be added. (IKE)(SL)

Response: While including all one hundred eighty-eight (188) hazardous air pollutants, as identified in the Clean Air Act, would make rule development simpler, IDEM has opted to identify a subset of those HAPs that are most important to the public health and environment of Indiana citizens. The methodologies for establishing the list of pollutants added to the proposed rule have been previously discussed (See 24 IR 1462.) IDEM agrees to review the pollutants specifically regulated under the Prevention of Significant Deterioration (PSD) program and whether the base metals should be listed separately from the metal compounds consistent with TRI.

Comment: The rule is too vague about the basis upon which an authorized individual is allowed to make an estimate. IDEM should consider using the TRI "best estimate" requirement. (IKE)(SL)

Comment: Do we have to use preapproved methods from IDEM and EPA to calculate emissions data or can we use methods that we think are the best technique?

(BP)(CGCU)(CTE)(ELC)(GE)(IC)(ICMA)(IMA)(IPC)(JH)(MCLP)

Comment: We question the validity of inventory data based on poorly rated available emissions factors. IDEM should develop a policy which addresses the use of emission factor data related to poorly rated emission factors. According to the draft rule, continuous emissions monitoring (CEM) data which is site specific must be accepted by IDEM and EPA. This acceptance would add additional and unnecessary administrative burdens to both the regulated sources and to the agency. (CGCU)(CTE)(IC)

Response: There are a variety of contexts in which emissions calculations require the use of emission factors. Through AP-42 and other published sources, U.S. EPA has provided standard factors for many industrial sources. The use of standard factors, where they are appropriate, is desirable because it enhances the consistency of data from source to source and across the country. Both U.S. EPA and IDEM recognize, however, that in some cases standard factors are not adequate. According to EPA guidance, (Introduction, AP-42, 1995) “The three principal methods for estimating emissions are source tests, material balances, and emission factors. If none of these three methods can be employed to estimate emissions for a specific process, an approximation or engineering estimate based on available process, physical, chemical, and emission knowledge may be used.” IDEM will continue to follow this guidance, as it currently does, and will modify the rule language to clarify the use of emissions factors. IDEM has also developed a nonrule policy document, Air-014-NPD, that includes procedures and validation requirements for approval of alternate emission factors.

Comment: The detailed emission unit reporting in the draft rule should be kept, but many operations have hundreds of small emission units. To reduce the reporting burden without sacrificing information, IDEM might consider methods to allow combination of small, related units. (IKE)(SL)

Comment: One provision of the draft rule that is a move in the right direction, is the exclusion of insignificant and trivial activities. However, by requesting detailed stack information for each process, which means we can no longer group similar processes with identical emissions, the IDEM totally negates any gains made. (UC)

Response: The draft language does not yet allow for such combining, but IDEM is reviewing language to clarify any confusion about combining like emission units, processes, and stacks and is considering defining an “emission reporting group” for this purpose.

Comment: A *de minimis* for reporting should be included in the rule. The definition of insignificant sources in the Title V rule for laboratories and similar sources might form a basis of a *de minimis*. (IKE)(SL)

Comment: A twenty (20) pound per year *de minimis* level is simply ludicrous. This is equivalent to less than one hundredths percent (0.01%) of a major source’s emissions or one tenth percent (0.1%) for a HAP major source. IDEM has provided no justification for such an insignificant reporting threshold and seems to give no consideration to the burden it will place on industry. Consideration should be given to establishing a *de minimis* reporting level of five tons (consistent with the TRI reporting threshold of ten thousand (10,000) pounds) unless there is a compelling, demonstrated health-based justification for a lower reporting level. (MCC)

Comment: A *de minimis* reporting level of twenty pounds per year is too low.

(BP)(ELC)(GE)(ICMA)(IMA)(IPC)(JH)(MCLP)

Response: IDEM received comments during the second comment period that included recommendations for establishing *de minimis* levels ranging from twenty thousand (20,000) pounds to twenty (20) pounds. IDEM proposed twenty (20) pounds as the *de minimis* level for all pollutants except dioxin, mercury and lead (which had no *de minimis* levels) in the draft rule. The twenty (20) pound *de minimis* level was chosen for the following reasons: many of the listed HAPs are known or possible carcinogens, or are persistent, bioaccumulative toxic chemicals that can have significant impacts on human health at extremely low levels and therefore warrant a low *de minimis* reporting level. Certain companies commented that twenty (20) pounds was a reasonable *de minimis* level; and twenty (20) pounds is consistent with IDEM's current policy for reporting of criteria pollutants. IDEM welcomes comments on the issue of establishing higher *de minimis* levels for certain HAPs. Specific feedback would be helpful on which HAPs need higher *de minimis* levels, the basis for why the *de minimis* levels should be raised, what the new *de minimis* levels should be, and how the proposed levels were derived.

Comment: Having just finished with our company's emission statement yesterday, the details and workings of this rule are very fresh in my mind. Next week, I will complete our first quarter compliance report required by our Part 70 permit. While this report only covers the first quarter emissions, essentially I am supplying IDEM with identical information twice in the span of one week. The IDEM needs to produce hard evidence as to why the information requested cannot be extrapolated from existing files and other reporting requirements. With a twelve (12) month rolling average provision, a source's fourth quarter air permit compliance report will provide all necessary information related to emission amounts and can be used for fee billing.(UC)

Comment: FESOP sources submit periodic compliance reports and IDEM can take that data and convert it to emissions information just as easily as a source would. The FESOP information that IDEM has in the permit applications and compliance reports can be converted by IDEM to emission estimates. (BP)(ELC)(GE)(ICMA)(IMA)(IPC)(JH)(MCLP)

Response: IDEM agrees that the rule should avoid duplication of efforts. However, in the case of many FESOPs, the reporting requirements do not clearly translate to emissions information, and IDEM is currently evaluating ways to simplify reporting for FESOP sources.

While IDEM understands the commenter's frustration with Title V reporting, a source has the information readily available and should have little difficulty in complying with the annual emission statement requirement because the quarterly compliance information has already been assembled.

Comment: Recognizing that the level of detail may be a concern, IDEM should adopt the amended draft rule, and then continue to work to refine the rule language. (IKE)(SL)

Response: IDEM will continue to work with the affected sources on the best way to gather the emissions information.

Comment: IDEM should readopt the existing rule. There are some flaws with the way that the process has moved, and there are significant concerns about the technical aspects of the draft rule.

(BP)(ELC)(GE)(ICC)(ICMA)(IMA)(IPC)(JH)(MCC)(MCLP)(UC)

Response: IDEM does not agree that the existing rule should be readopted. With additional discussion among interested parties, IDEM believes that the rule can be improved in a number of respects and will continue to work toward that end.

Comment: There is no federal mandate to gather the information in the draft rule. IDEM should wait until U. S. EPA final adopts the Consolidated Emissions Reporting Rule (CERR). (BP)(ELC)(GE)(ICMA)(IMA)(IPC)(JH)(MCLP)

Response: It is true that there is not a specific federal mandate to collect HAP information, but the Clean Air Act and federal regulations require the reporting of certain criteria pollutants. The purpose of the proposed CERR is to improve and simplify emissions reporting by states to U.S. EPA. However, it is uncertain when U.S. EPA will complete the CERR or if toxics reporting will be included. If a federal rule is ultimately finalized that contains requirements that go beyond or are inconsistent with Indiana's rule, IDEM would start the process to consider any appropriate or necessary amendments to the rule.

Comment: A large issue with the amended rule is that requesting this information to this level of detail places an overwhelming burden on those companies affected, without this additional information serving the IDEM or the citizen's of Indiana. Without this rule even existing, IDEM currently has between its permit files, air permit reporting requirements, and Toxic Release Inventory (TRI) reports, all the significant information they are requesting via the emission statement.(UC)

Comment: The process level and stack information required by the draft rule is more detail than necessary and is not needed by the public or IDEM programs. (BP)(ELC)(GE)(ICMA)(IMA)(IPC)(JH)(MCC)(MCLP)

Response: While TRI, permits, and compliance reports contain certain information and serve their own purposes, they do not allow for the development of emission inventories as do process level estimates of actual emissions. TRI and compliance reports are source-wide emission estimates, making it difficult to assign these emissions to processes for policy and regulatory analysis. Permits are based on potential emissions. These are estimates that are rarely representative of the actual emissions from the source. Only with process level data can IDEM make sound policy decisions based on real world information.

Comment: Stack information and facility and emission unit operating information, as requested in the draft rule, is already sitting in the IDEM files on all emission sources at a permitted facility. The emission statement rule is duplicative of other information submitted to IDEM and should be eliminated. (UC)

Comment: Title V permit applications have given IDEM a significant amount of detail about stack information which could be used for modeling. (BP)(ELC)(GE)(ICMA)(IMA)(IPC)(JH)(MCLP)

Comment: We offered written comments about using generic terms instead of stack specific terms. IDEM's response was inadequate. It has been extremely frustrating to work with IDEM on the development of different, simpler approaches in which they could obtain the desired information. How stack information has any relevancy to public access to information, program effectiveness evaluations, or fee billing, is hard to see. (MCC)

Response: Many of the affected sources have already submitted stack information using the STEPS software. Once in the database, there is no need to change or re-enter this information on a yearly basis. This information will continue to be carried over as the program is expanded to new pollutants. New stack and process information will need to be added if the new pollutants to be reported are generated from processes not previously included in emission statements.

As noted in earlier responses, the requested information is used for a variety of programs, not just billing and IDEM is attempting to determine how to combine reports from companies so that the various programs' needs are met while reducing the reporting burden to the companies. The information supplied by sources in permit applications may not accurately describe what actually was built at the source. IDEM welcomes specific ideas for combining or eliminating duplicative or similar reports.

Although generic terms instead of stack specific terms are useful for some modeling protocols, IDEM believes that more specific information is needed to meet the stated goals of collecting HAP emissions information.

Comment: Major sources contribute about thirty percent (30%) of the hazardous air pollutant emissions in Indiana, and those are the ones who would be the primary reporters under the draft rule. So, seventy percent (70%) of the hazardous air pollutant emissions in Indiana are not even addressed or collected under this rulemaking. (BP)(ELC)(GE)(ICMA)(IMA)(IPC)(JH)(MCLP)

Response: The majority of HAP emissions, not just in Indiana but throughout the country, come from mobile sources. However, the contributions from point sources is not insignificant. Understanding point source contributions and effective emission reduction strategies are important. Reasonably accurate methodologies exist to estimate emissions from mobile sources and small stationary sources. Major sources, by definition, emit at levels greater than ten (10) tons per year or more of HAP. Many major sources in Indiana emit HAPs at levels greater than one thousand (1000) tons per year. IDEM believes that having good information on the processes responsible for such large contributions of HAPs is sound public health and environmental policy.

Comment: Hazardous air pollutants (HAP), which are being requested as a mandatory inclusion on the emission statement, are covered by Toxic Release Inventory (TRI) reports. (UC)

Comment: IDEM's proposal to require additional information be reported on HAP is not warranted. Most of the information being requested is already provided to IDEM in TRI reports. The entire list of the additional fifty eight (58) chemicals should be deleted from the reporting rule. (MCC)

Comment: Many of the objectives that IDEM has for this draft rule, such as planning and evaluation of other rules, can be satisfied by existing data supplies, primarily the TRI program. The information submitted in the TRI reports can be extracted many ways such as significant emitters of a particular pollutant and trends. IDEM could ask for additional process level information if needed rather than a year to year reporting requirement. Another source of information on the internet is the National Air Toxics Assessment (NATA) database. (BP)(ELC)(GE)(ICMA)(IMA)(IPC)(JH)(MCLP)

Comment: As a user of the information, the TRI information is limiting because it is so general, it is facility wide, there is a relatively high threshold, and there are a lot of gaps in the information that limits its usefulness. Municipalities, nonmanufacturers, and nonutilities do not report even though they

may be FESOP sources. (IKE)(SL)

Comment: In doing a bit of research for a citizens group concerning a steel mill, the TRI data could not be trusted. (SL)

Response: IDEM does not agree that TRI data adequately meets the public's or the department's needs. As stated by two commenters, TRI data has limited usefulness. U.S. EPA uses TRI data and state supplied information, if it exists, to develop the inputs for the NATA database. The NATA database contains U.S. EPA's modeled projected average annual concentrations for select HAPs at the county level. One of the reasons to collect additional HAP information in Indiana is to supplement the data used by U.S. EPA to model HAP concentrations.

Comment: Some companies, that are required to submit an emissions statement in the draft rule, are not subject to TRI reporting and have not developed this type of extensive emissions inventory. Sources not submitting a TRI report could be targeted for more information. We request that IDEM develop a targeted list of HAPs by source category that should be reported. Such a targeted list would serve to reduce the administrative burden on affected sources. (CGCU)(CTE)(IC)

Response: IDEM agrees that not every company affected by the draft rule is subject to TRI reporting. One purpose of the draft rule is to collect information that cannot be derived from TRI. IDEM understands the commenters' concerns about reducing the number of HAPs that need to be reported. Also, the rule does establish a *de minimis* reporting threshold. Therefore, a source would not have to report a pollutant if its emissions fall below the *de minimis* reporting threshold consistent with insignificant activity levels. Many companies will not have to report any additional pollutants.

Comment: As the economy moves more and more to a global setting, Indiana businesses are struggling to compete. The cost of this rule is still being evaluated. Our emission report takes approximately sixty (60) hours to complete. For companies such as Utilimaster, who are large enough to have an environmental person, the cost is absorbed without great difficulty. These emission statements annually cost small and medium size businesses roughly two thousand dollars (\$2,000) to three thousand dollars (\$3,000) to have completed by an outside consultant. With a profit margin of two percent (2%), a business must then increase sales by one hundred thousand dollars (\$100,000) to one hundred fifty thousand dollars (\$150,000) to simply cover the cost of this reporting requirement. Larger companies will need thirty percent (30%) to forty percent (40%) more time to complete the statement. These same companies will then again have to increase sales by forty thousand dollars (\$40,000) to sixty thousand dollars (\$60,000) as a direct result of the amendments to this rule. (UC)

Comment: The cost of reporting emission information required by the draft rule will increase significantly. (BP)(ELC)(GE)(ICMA)(IMA)(IPC)(JH)(MCLP)

Comment: Lilly has estimated at least a tenfold increase in emission reporting costs with the draft rule. The cost estimate for one of our sites to comply with the current rule is ten (10) to twenty (20) thousand dollars a year. A tenfold increase would be one hundred (100) to two hundred thousand dollars for one site, and Lilly has several sites around the state. (ELC)

Response: IDEM appreciates the cost information provided by these comments and will use these cost estimates, with other information, as it evaluates the financial impact of this rulemaking on the regulated community.

Comment: Early reporting places a significant burden on companies and should not be required for frivolous and unsubstantiated reasons. Elkhart County was identified as out of attainment for ozone because of its proximity to St. Joseph County. Since that time, Elkhart County has obtained its own sampler and it has shown continuous compliance with the ozone standard. Elkhart County should be given relief from early reporting and lower reporting thresholds. (MCC)

Response: Elkhart and St. Joseph Counties were designated nonattainment for ozone in 1978 and redesignated to attainment in 1994. The redesignation became possible due to no violation of the ozone standard at any of the monitors in the two counties for three years, adoption of a maintenance plan for ozone attainment in Elkhart and St. Joseph Counties, implementation of Reasonably Available Control Technologies, and emissions reductions resulting from the Federal Motor Vehicle Control Program. The Census Bureau currently has Elkhart and St Joseph Counties listed as separate metropolitan statistical areas, but each county has a substantial urban area with Elkhart County projected to have the biggest percentage increase in population. More people travel into Elkhart County to work than leave to work in other areas. Also, it is important to recognize that emissions from Elkhart County affect the Cassopolis, Michigan monitoring site and exceedances of the eight hour ozone standard at the site require that emissions from Elkhart County be closely tracked.

Comment: IDEM's proposal to extend reporting requirements for all companies with potential emissions over ten (10) tons is not warranted. All reporting thresholds should be set at one hundred (100) tons per year, both for attainment and maintenance areas. (MCC)

Response: The draft rule includes language to raise the reporting threshold for nitrogen oxides (NOx) and volatile organic compounds (VOC) to twenty-five tons for maintenance counties and to keep the current ten (10) tons reporting threshold for nonattainment counties. Reporting thresholds of one hundred (100) tons per year would not be consistent with Section 182(3)(B)(ii) of the Clean Air Act Amendments of 1990. However, IDEM proposes to exempt Source Specific Operating Agreements (SSOA), permits by rule, and registrations from the emission statement reporting requirements.

Comment: IDEM amended the draft rule to include provisions suggested by a number of commenters that they should and could request additional information from individual sources as deemed appropriate by specific circumstances or concerns. However, this suggestion was provided as an alternative to the level of detail in the draft rule. IDEM accepts that they are able to request additional information if needed, but ignores the primary point that they should not require this burdensome information when a need is not present. (MCC)

Response: IDEM understands that the suggested language was intended to be an alternative to regular required reporting, but believes there is merit in having this type of provision to allow discrete information inquiries. IDEM believes at the specified level of detail that a real need for the requested emissions information exists and has discussed the need in earlier responses. IDEM will continue to work with interested persons on the level of detail established in the rule.

Comment: This draft rule will expand the applicability to approximately one thousand two

hundred (1200) sources. Does IDEM have the resources to manage the additional information?
(BP)(ELC)(GE)(ICC)(ICMA)(IMA)(IPC)(JH)(MCLP)

Response: Currently, more than one thousand three hundred (1,300) sources report emissions annually. Under the proposed rule, approximately one thousand two hundred (1,200) sources would report during any given year. This is due in part to the exemptions given to smaller sources in the applicability of the proposed and only requiring FESOPs, located in attainment counties, to report every three years. IDEM currently has the resources to manage the proposed rule.

Comment: By law, emissions information is not considered confidential. Some of the information that IDEM is requiring with the draft rule could be considered trade secrets.
(BP)(ELC)(GE)(ICMA)(IMA)(IPC)(JH)(MCLP)

Response: Although IC 13-14-11-1 specifically excludes emission data from the trade secrets exemption to public availability of records, IDEM encourages those entities who believe any required information is a trade secret to petition the commissioner to treat such information confidentially pursuant to state law. By submitting a request to the commissioner, a finding will be made and the information may be considered, treated and protected, all or in part, as confidential.

Comment: “Maximum design capacity” needs to be more clearly defined. (IKE)(SL)

Response: IDEM agrees and a clearer definition will be written.

Comment: Why is “maximum design rate” limited to the fuel use? (IKE)(SL)

Response: A decision was made to limit reporting of this parameter to combustion sources, because it is being more readily available for this type of process.